

CHAPTER 4

ACQUISITION ROLES AND RESPONSIBILITIES WITHIN AN AGENCY (THE PLAYERS)

An Agency's Organization

Jane Doggett, a contract specialist, has just transferred to the Department of Transportation (DOT) from another Federal agency. Jane made the job change because she was promised that, after a reasonable break-in period, she would receive a Contracting Officer appointment and a promotion in grade.

After the usual processing through the Office of Personnel, Jane was assigned to the Federal Railroad Administration (FRA), Office of Procurement Services. Jane knew that the Coast Guard and the Federal Aviation Administration were part of DOT, but she had never heard of the FRA, nor did she know where it fit into the agency.

Wanting to impress her superiors, Jane determined that she needed to review the lines of procurement authority within DOT and the sources of policy and procedural direction. She wondered where she might find the necessary information.

Learning Objectives

- 4-1 Describe various approaches to organizing the acquisition function within an agency.
- 4-2 Define “Law of Agency”.
- 4-3 Identify and define the roles and responsibilities of:
 - Contracting Officers (COs).
 - Other contracting personnel.
 - Program/requirements managers.
 - Contracting officer representatives and technical representatives.
 - Quality assurance personnel.
 - Logistics transportation, and supply managers.
 - Property managers.
 - Auditors and accountants.
 - Legal counsel.
 - Small business advocates.
 - Competition and breakout advocates.
 - Other interested parties.

Exhibit 4-1. Learning Objectives.

CHAPTER INTRODUCTION

Every executive agency has a specific mission. The agency head establishes broad policies, organizes the agency to meet mission objectives, and delegates authority for those objectives. Acquisition roles and responsibilities within an agency are a function of the agency’s mission, policies, organization, and delegations of authority.

4.1 TYPICAL ORGANIZATION WITHIN AGENCIES

Purpose of this Section

Agencies are organized to maximize the use of resources in fulfilling their missions to ensure management control consistent with the delegation of responsibilities and authorities, and, to some degree, to reflect the management prerogatives of agency heads and their principal assistants.

There are differences in organization among the executive agencies, and agencies often reorganize from time to time. For the purposes of this chapter, we will describe how various agencies were organized circa 1990. The purpose of this chapter is NOT to provide up-to-the minute news on the organization of such departments and agencies as the General Services Administration (GSA), Labor (DOL), or Transportation (DOT). Rather, the purpose of this chapter is to convey how agencies typically organize the procurement function.

Typical Differences in Placement of the Acquisition Function

The placement of the acquisition function within an agency in large part depends on the relative importance of that function to the agency's mission. For example, part of the DOL mission is to ensure that various labor laws are implemented and enforced. Acquisition is important to DOL, but it is not a predominant function. Accordingly, Labor's procurement executive (circa 1990) was the director for both "administrative" and "procurement" programs and reported to an Assistant Secretary for Administration and Management.

On the other hand, a major part of the mission of GSA is to make certain items of supplies and services available to all executive agencies. Because this responsibility requires a large, well-managed acquisition organization, the procurement executive (circa 1990) was GSA's Associate Administrator for Acquisition Policy and reported directly to the agency head (or deputy).

The U.S. Department of Transportation (DOT) is an example of an agency with multiple missions. DOT is organized as shown in the following exhibits.

DEPARTMENT OF TRANSPORTATION ORGANIZATION CHART

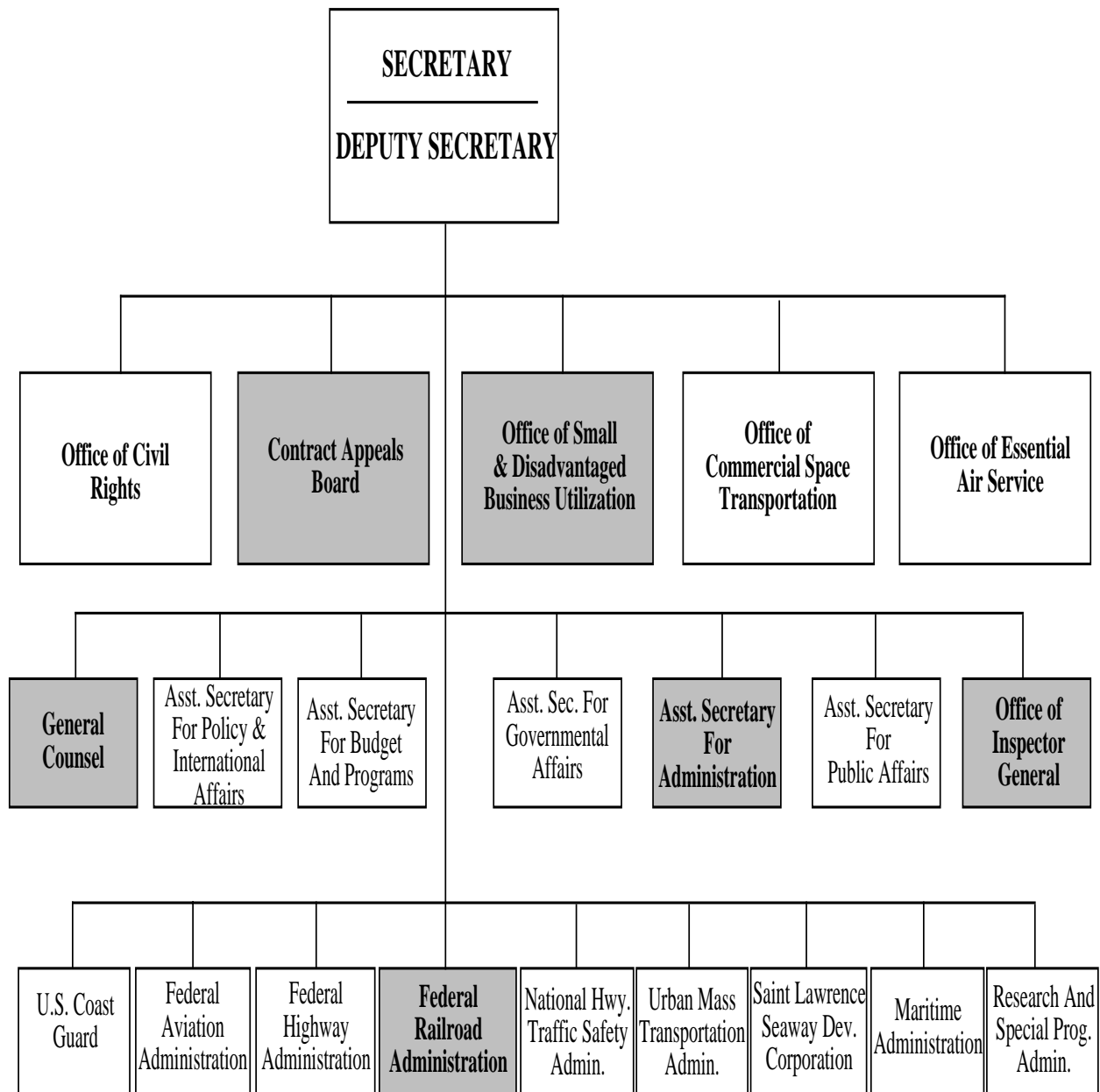


Exhibit 4-2. DOT Organization Chart.

DOT's mission is delegated to nine major sub-organizations (e.g., the Coast Guard, seven Administrations, and one Corporation). Note that four acquisition or acquisition-related functions are retained by the Secretary of Transportation:

ACQUISITION ROLES AND RESPONSIBILITIES

- The Contract Appeals Board.
- The Office of Small and Disadvantaged Business Utilization.
- General Counsel.
- Office of the Inspector General.

Moreover, Secretary of Transportation assigned the role of Procurement Executive to another official of the Secretary's immediate office: The Assistant Secretary for Administration. Upon examining the organization chart for that official, you will find an Office of Acquisition and Grant Management (OAGM).

DOT — ASSISTANT SECRETARY FOR ADMINISTRATION ORGANIZATION CHART

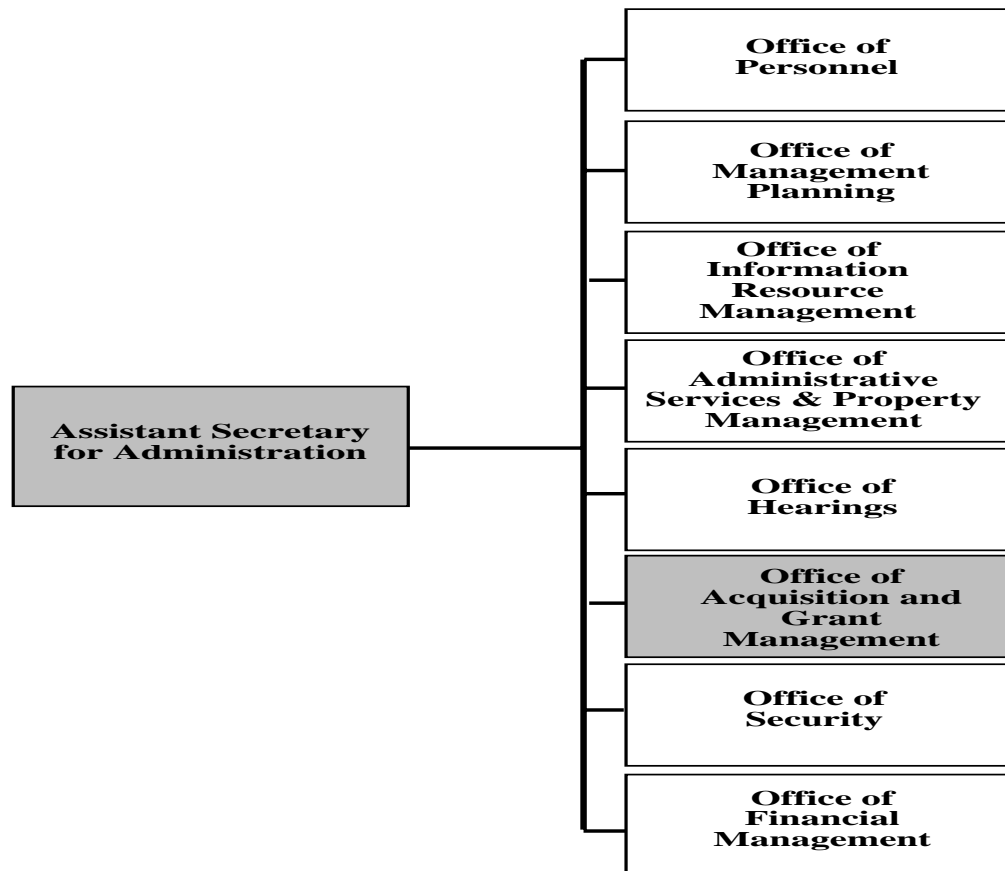


Exhibit 4-3. DOT — Organization Chart for the Office of the Assistant Secretary for Administration

The OAGM was responsible for implementing and supplementing the FAR and did so by issuing and maintaining the Transportation Acquisition Regulation (TAR). A member of the OAGM staff served on the Civilian Agency Acquisition Council (CAAC) that is part of the FAR maintenance organization. The OAGM also had policy, management, and reporting authority and responsibilities that crossed all nine of the mission-oriented organizations. The actual contracting work of DOT is performed by contracting activities located within the various sub-organizations, as illustrated in the next Exhibit.

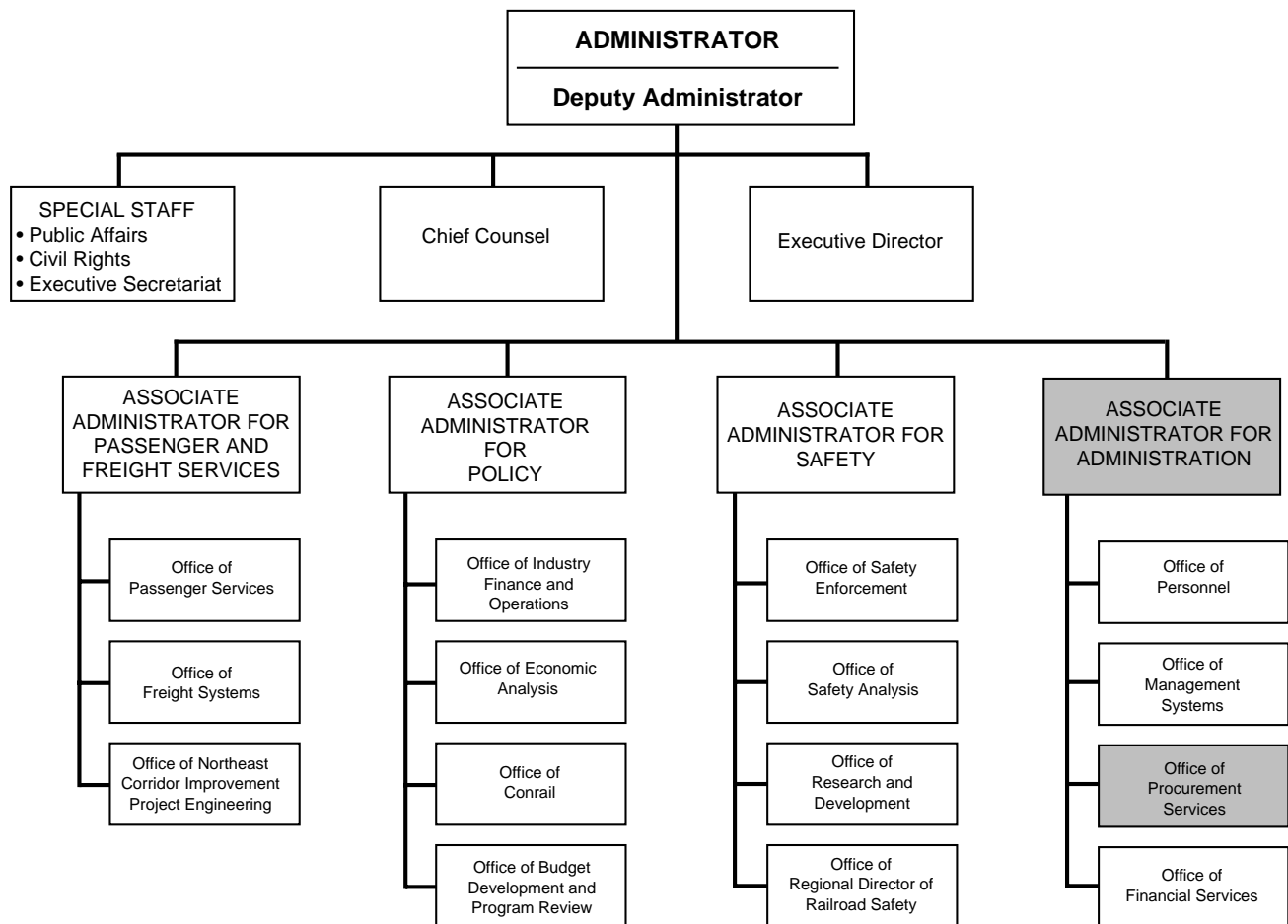


Exhibit 4-4. Federal Railroad Administration Organization Chart.

ACQUISITION ROLES AND RESPONSIBILITIES

Within the Federal Railroad Administration, acquisition operations were performed within the Office of Procurement Services. The head of that office reported to the Associate Administrator for Administration who reports to the Administrator. It entered into contracts on behalf of the requiring activities within the Federal Railroad Administration (e.g., the Office of Research and Development, the Office of Northeast Corridor Improvement Project Engineering, etc.). However, the broad acquisition policies, reporting requirements, and regulatory controls flowed from the Office of Acquisition and Grant Management.

The DOT organization (Exhibit 4-2) is complex and may not closely correspond with your agency's organization. What is important is to be able to identify the people and the organizations that play important roles in the process.

Thinking back to the vignette at the beginning of this chapter, Jane realized that one source of information on the procurement line of authority is the agency organization chart. While a "wiring" diagram doesn't contain all of the information needed, it can lead to additional information. Jane found that the DOT organization is different from that of her former agency but that the delegations of authority and responsibility followed similar patterns (e.g., broad agency policy at the top and procedural details at lower levels.)

4.1.1 Top Agency Officials

Agency Head and Staff

The agency head establishes overall agency policy, appoints persons to fill key positions, and has "unlimited" acquisition authority. The agency head sometimes makes key acquisition decisions, such as in source selection. Agency heads must ensure that planning, programming, and budgeting systems are established and maintained so as to ensure the efficiency and effectiveness of the acquisition function. The agency senior acquisition executive (see below) and other staff and department heads are normally delegated specific authorities to act for the agency head.

Also, in many instances, legal counsel is part of the agency head's immediate staff. Legal counsel may participate in formulating agency acquisition policy, review contract actions for legal sufficiency, and advise acquisition officials on protests, disputes, and other complex issues.

Comptroller, Finance and Accounting

Financial management is under the office of the comptroller (or similarly titled official). The comptroller participates in budget development and prepares the agency's budget submission to OMB. Once money becomes

available to the agency, the comptroller controls the commitment, obligation, and disbursement of funds. Every contract (and most contract modifications) involves the obligation (or de-obligation) of funds. The cognizant financial officer in the comptroller's office certifies that the required amount and type of money is available for each contract action. In some agencies, the comptroller also provides pricing, audit, and other financial support services to assist the CO.

Senior Procurement Executive

Often, the highest level of acquisition authority within an agency is the agency procurement executive (PE). Generally, the procurement executive establishes major acquisition policies and ensures compliance with them. "Procurement Executive" is a functional title. The individual with this responsibility may be an Assistant Secretary, Assistant Administrator, or other high-level official.

4.1.2 Types of Organizations

Functional (Mission) Divisions

Functional divisions of an agency are established to support agency missions and may mirror the "headquarters" organization. For example, functional divisions of the Department of the Navy include the Air Systems Command (NAVAIR) and the Sea Systems Command (NAVSEA). Within those commands there are legal staff comptrollers, acquisition personnel, and mission-oriented organizations such as program offices, logistics, quality assurance, etc. Another example includes the functional (mission) divisions within GSA. They include:

- Public Buildings Service (PBS). The PBS has broad responsibilities for acquiring through purchase or lease, buildings and other real estate for use Governmentwide. PBS also has some responsibility for maintenance of Federal office buildings.
- Federal Supply Service (FSS). The FSS is responsible, on a Governmentwide basis, for acquiring and maintaining stocks of certain supplies; for acquiring office furniture and fixtures, and certain power and hand tools; for purchasing or leasing motor vehicles; and for establishing and maintaining "schedule" contracts.

Each of the above GSA organizations is a contracting activity (as is the head of NAVAIR and NAVSEA). The head of a contracting activity (HCA) is generally the next level of acquisition authority below the acquisition executive and has overall responsibility for managing the contracting activity.

Within a contracting activity, the HCA may delegate authority to divisions, branches, sections, etc., along organizational lines. The appoint-

ment of COs and their dollar level of authority is generally managed within the contracting activity by the HCA or a staff office under the HCA.

Field Activities

Some agencies or functional divisions may retain contractual authority at the headquarters level and perform all acquisition activities essentially within the “headquarters.” Other agencies (GSA, EPA, Defense agencies), or functional divisions within agencies, that have nationwide or worldwide responsibilities, delegate contractual authority, in varying degrees, to the field activities.

4.2 KEY ACQUISITION PERSONNEL

4.2.1 The Law of Agency

Recall the question posed by the Supreme Court as quoted in Chapter 3 relative to the **validity** of a Government contract: “Is the act performed by someone having the authority to act?” In Government contracting it is also necessary to consider the “law of agency.”

Under the law of agency, one party, known as the principal, appoints another party, known as an agent, to enter into a business or contractual relationship with a third party. In Governmental contracting the:

- Government is the principal.
- Contracting Officer (CO) is the agent.
- Third party is the contractor.

What this all means is that, for a Government contract (including modifications and changes) to be valid, it must be entered into by a duly appointed CO acting within the scope of his or her authority (to act). You will see later that the CO may delegate authority for some decisions to others.

4.2.2 Roles and Responsibilities

Contracting Officers

FAR Subpart 1.6

The CO is the key operational person in the Federal acquisition process. The fundamental authority and responsibilities of a CO as summarized from FAR 1.602 are shown on Exhibit 4-5. The decision making authority of COs, as well as the limits on that authority, are also established in case law (e.g., decisions by the courts, Comptroller General, and Boards of Contract Appeals), agency supplemental regulations, and specific delegations of authority by the head of the agency.

CONTRACTING OFFICER AUTHORITY AND RESPONSIBILITIES

Authority:

- Contracting officers may enter into, administer, or terminate contracts and make related determinations and findings.
- Contracting officers may bind the Government only to the extent of the authority delegated to them.
- Contracting officers receive from the appointing authority clear instructions in writing regarding the limits of their authority.
- Information on the limits of the contracting officers' authority is readily available to the public and agency personnel.
- No contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, and all other applicable procedures, including clearance and approvals, have been met.

Responsibilities:

- Contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.
- In order to perform these responsibilities, contracting officers should be allowed wide latitude to exercise business judgement. Contracting officers shall:
 - Ensure that the requirements of pertinent laws, regulations., etc., have been met.
 - Ensure that sufficient funds are available for obligation.
 - Ensure that contractors receive impartial, fair, and equitable treatment.
 - Request and consider the advice of specialists in audit, law, engineering, transportation, and other fields, as appropriate.

Exhibit 4-5. Contracting Officer Authority and Responsibilities

ACQUISITION ROLES AND RESPONSIBILITIES

As noted in Exhibit 4-5, a CO may have the authority to enter into, administer or terminate contracts. Sometimes, because of the volume and scope of an agency's contracting mission, a CO may be appointed to perform all or any one of the three functions. Therefore a CO may be appointed as:

PCO — Procuring Contracting Officer. Manages the planning, solicitation and award of a contract; signs it.

ACO — Administrative Contracting Officer. Administers a contract signed by the PCO (if assigned to do so).

TCO — Termination Contracting Officer. Manages termination actions, disposal of property, etc., following a termination action by a PCO.

A “short” list of “approve or disapprove” tasks that may be performed by a CO (if so authorized) is shown on Exhibit 4-6. A comprehensive listing could include 150 or more tasks that may be the responsibility of the CO.

SOME “APPROVE OR DISAPPROVE” CO TASKS

A CO may be required to approve, disapprove, and/or execute:

- Advance procurement plans.
- Small business set-asides.
- Solicitations.
- Cost and profit negotiation objectives.
- Negotiation memoranda.
- Small business subcontracting plans.
- Contracts.
- The allowability of costs.
- Contractor property control, purchasing, or quality assurance procedures.
- Contractor's requests for assignment of claims, leasing, travel, or placement of sub-contracts.
- Individual sureties.
- Cure notices.

Exhibit 4-6. Some “Approve” or “Disapprove” CO Tasks

CHAPTER 4

Other Contracting Personnel

Because the CO has many functions to perform, he or she is usually supported by a staff of contracting personnel (GS-1102) and procurement assistants (GS-1106). Titles for contracting positions include:

Contract Specialist. Has special knowledge of preaward and postaward procedures. May plan or conduct the contracting process, from reviewing the purchase request through delivery and contract closeout. The title “contract specialist” often is used for positions in the following specializations, even though generally the term is reserved for those who have “cradle to grave” responsibilities.

Contract Negotiator. Has special knowledge and ability to enter into contract negotiations and reach agreements with a prospective contractor.

Contract Administrator. Has special knowledge of postaward contracting procedures to ensure compliance with the terms and conditions of contracts.

Contract Price/Cost Analyst. Has special knowledge of cost and price analysis techniques and analyzes proposals, contract changes, repricing agreements; supports price negotiations.

Contract Termination Specialist. Has a knowledge of postaward procedures and negotiation techniques necessary to represent the Government (perhaps as a TCO) in the settlement of termination claims.

Procurement Analyst. Has a broad knowledge of acquisition policies and procedures necessary to plan, analyze, or evaluate acquisition programs; reviews proposed contract actions; develops regulatory material; assists subordinate activities.

Program and Requirements Managers

Senior level managers identify the need for supplies or services to support their programs, determine strategies for meeting the need (including in-house performance vs. contracting), and, when the decision is to contract, prepare and submit purchase requests to the CO.

After acceptance of the purchase request, the managers and/or their staffs often perform such functions as reviewing technical and business management proposals from offerors, participating in fact finding and negotiations, and ranking proposals against technical and management evaluation factors. After contract award, they may perform such contract administration management duties as inspection and acceptance of deliverables, as representatives of the CO (see below).

ACQUISITION ROLES AND RESPONSIBILITIES

Contracting Officer Representatives/Technical Representatives

The CO may choose to delegate limited authority for certain contract-related decisions to designated individuals. Such individuals are often known as:

CORs — Contracting Officer's Representatives.

COTRs — Contracting Officer's Technical Representatives (the COTR works for or represents the requiring activity and manages the performance of the contractor from a technical perspective).

COs appoint CORs and COTRs and specify their authority in writing. The appointed personnel may perform only those functions delegated to them, and neither acquisition nor non-acquisition personnel may sign contracts or modify contracts or take any other action that has been reserved to the CO.

Typical post-award duties (especially for a COTR) include:

- Monitoring technical performance by reviewing progress reports, making plant visits, etc.
- Inspecting deliverables and preparing receiving reports.
- Comparing progress with delivery schedules and cost objectives.
- Advising the CO of suspected problems with contract performance.
- Providing technical assistance to the CO regarding changes and modifications.

Quality Assurance Personnel

As COTRs, quality assurance personnel specialize in the tasks of inspecting and accepting (or recommending rejection of) items delivered under Government contracts. They may also be responsible for reviewing the acceptability of a contractor's quality assurance procedures and programs.

Transportation, Logistics, and Supply Managers

Transportation managers ensure compliance with transportation rules and regulations and determine the best shipping methods. Logistics and supply managers perform such functions as forecasting needs, identifying economic ordering quantities, initiating purchase requests, and managing inventories.

Property Managers

Property managers may be appointed as CORs for such functions as arranging for the furnishing of Government property to a contractor, monitoring the contractor's compliance with the property clauses of the contract, assessing any damage to Government property, and recommending the method or methods for disposing of property.

Auditors and Accountants

Auditors and accountants audit contractor accounting and estimating systems, cost and pricing data, invoices, and the like. They also assist the CO

with such functions as establishing positions on proposed elements of cost, evaluating offerors' financial responsibility, and establishing indirect cost rates for billing purposes.

Legal Counsel	Lawyers typically review proposed solicitations, awards, and contracts for legal sufficiency, assist COs in responding to protests and disputes, and advise COs on the interpretation and applicability of laws, regulations, case law, and contract clauses.
Small Business Specialists	Working independently or with the CO, these specialists perform such functions as planning set-asides, identifying "break-out opportunities," reviewing subcontracting plans, and otherwise supporting attainment of small business goals.
Competition Advocates	Competition advocates review acquisition plans and analyze specifications to identify and discourage "barriers" to full and open competition. They also review justifications for other than full and open competition.
Other Interested Parties	Numerous other specialists or program-related persons may become involved with a particular acquisition or program; e.g., performance measurement specialists, value engineering program specialists, streamlining advocates (eliminating unnecessary specifications).

4.3 THE ACQUISITION FUNCTION IN OPERATION

Using the foregoing outline of organizations and personnel as the basis, a typical acquisition action may involve the following six steps in sequence:

1. A program or requirements manager identifies a need for supplies or services (i.e., the "requirement") that can best be met through the acquisition process. The manager drafts and/or selects applicable "requirements documents" (e.g., specifications or statements of work). On larger buys, the program managers often obtain assistance in preparing requirements documents from contracting, technical, quality, and other specialists. This and other material is "packaged" as a Purchase Request (PR).
2. The PR must be approved at the organizational levels prescribed in agency regulations.
3. The approved PR generally goes to the Comptroller (i.e., Finance Office) for a commitment of funds—for the amount of money that the program or requirements manager estimates will be needed for a contract. The PR is forwarded to the CO.

ACQUISITION ROLES AND RESPONSIBILITIES

4. The CO reviews the PR. If it is acceptable, the CO, with assistance from the program or requirements manager:
 - Researches the market, plans the solicitation and evaluation of offers, and solicits offers.
 - Receives and evaluates offers.
 - Selects the source and awards the contract.
5. The contracting officer administers the contract or assigns it, in whole or in part, to an ACO for administration.
6. The program or requirements manager and any designated COTRs (assisted by field organizations, if necessary) administer assigned terms and conditions of the contract, to the extent authorized by the CO or ACO.

The above process continues until the work is completed and the contract closed.

